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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,944	03/19/2004	Peter Rother	P04,0081	8087

7590 05/25/2005

SCHIFF HARDIN LLP  
Patent Department  
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EXAMINER

KIKNADZE, IRAKLI

ART UNIT PAPER NUMBER

2882

DATE MAILED: 05/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/804,944

Applicant(s)

ROTHER ET AL. 

Examiner

Irakli Kiknadze

Art Unit

2882

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/19/2004</u> | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Specification***

1. The use of the trademark " Vakon, Vacon 10 " has been noted in this application (Page 2, line 9). It should be capitalized (as VAKON, and VAKON 10) wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 contains the trademark/trade name " Vakon and Vakon 10 ". Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App.

1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe a metal window frame and, accordingly, the identification/description is indefinite.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Watanabe (US Patent 5,790,630).

With respect to claim 1, Watanabe teaches an x-ray beam emission window comprising: a radiation-permeable plate formed by a disc of ceramic material (as SiC film (11)); and a window frame (61) supporting the plate (11) and attached in a wall

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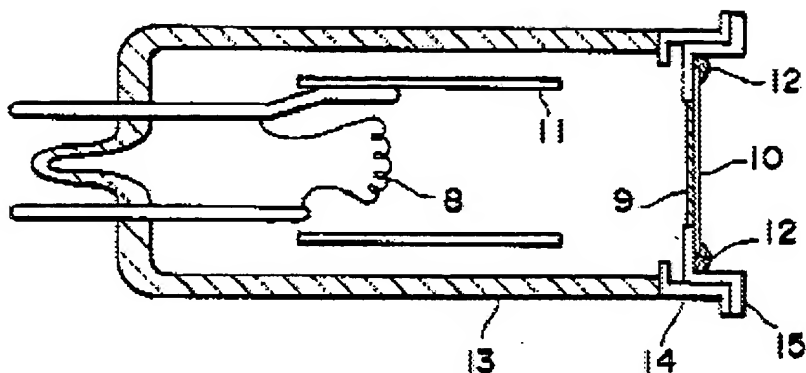
opening of an evacuated housing, the window frame being composed of a metal (Al) compatible with thermal expansion properties of the ceramic material (SiC) (column 4, line 65 – column 5, 13).

**FIG. 6A**

Claims 1, 3 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Inazuru (US Patent 5,848,124).

With respect to claim 1, Inazuru teaches an x-ray beam emission window comprising: a radiation-permeable plate formed by a disc of ceramic material (as SiC film (10)); and a window frame (15) supporting the plate (10) and attached in a wall opening of an evacuated housing, the window frame being composed of a metal (KOVAR) compatible with thermal expansion properties of the ceramic material (SiC) (Fig.3; column 11, lines 18-40).

**Fig. 3**



With respect to claim 3, Inazury teaches that the plate (10) has a metallization thereon and is soldered into the window frame (15) with solder (12) (column 11, lines 26-32).

With respect to claim 4, Inazury teaches that the plate is soldered into the window frame (15) with active solder (12) (column 11, lines 26-32).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Inazuru (US Patent 5,848,124) as applied to claim 1 above, and further in view of Kutsuzawa (US Patent 6,487,272 B1).

With respect to claim 5, Inazury teaches that an x-ray beam emission window (10) comprising an auxiliary frame (14) composed of KOVAR and surrounding the window frame (15) and welded into the wall opening of the evacuated housing (column 11, lines 35-45). Inazury fails to teach using stainless steel for the auxiliary frame. Kutsuzawa teaches an X-ray tube comprising an X-ray window holding ring (36) made of mechanically strengthened material such as iron alloys (KOVAR) or (stainless steel) (column 3, lines 41-47). It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ teachings of Kutsuzawa in the invention of Inazury to provide the auxiliary frame composed of stainless steel, since applicant has not disclosed that stainless steel solves any state problem or is for any particular purpose and it appears the invention would perform equally well with the auxiliary frame composed of mechanically strengthened material such as iron alloys KOVAR or stainless steel.


### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Irakli Kiknadze whose telephone number is 571-272-2493. The examiner can normally be reached on 9:00- 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Glick can be reached on 571-272-2490. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Irakli Kiknadze  
May 17, 2005



EDWARD J. GLICK  
SUPERVISORY PATENT EXAMINER